Remarks

Claims 15-26 were pending. By this amendment and solely to further prosecution, claims 15, 18, 20 and 21 are amended. Claims 16, 17, 19 and 22-26 are canceled without prejudice. Applicant reserves the right to pursue any canceled subject matter in one or more continuing applications and respectfully traverses any rejection of the canceled subject matter. After entry of this amendment, claims 15, 18, 20 and 21 are pending.

The specification has been amended to correct the numerical value of the starting admixture standard concentrations and the resulting % methyl anthranilate admixtures in the various Examples. Submitted herewith is a 1.132 Declaration from sole-inventor Gary Snyder stating that such errors were unintentionally introduced at the time of drafting the application. Consideration and allowance of the pending claims in light of the amended specification are requested.

35 U.S.C. §103(a)

Claims 15-26 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Weaver (U.S. Patent No. 3,669,684) in view of the combination of Arctander (Methyl Anthranilate), Gross (U.S. Patent No. 3,071,474), Klopping (U.S. Patent No. 4,060,625) and Apple Storage Technologies Article, hereinafter, Apple Article. Claims 25 and 26 were also rejected as allegedly obvious in light of the aforementioned references further in view of Fulton *et al.* (U.S. Patent No. 1,557,758). Claims 15-18, 20 and 22-23 were rejected as being unpatentable over Shillington *et al.* (U.S. 3,533,810) in view of Arctander (Methyl Anthranilate), Askham (U.S. Patent No. 5,296,226), Gross (U.S. Patent No. 3,071,474), Klopping (U.S. Patent No. 4,060,625) and the Apple Article. Claims 19 and 24 were rejected as being unpatentable over Shillington *et al.* (U.S. 3,533,810) in view of Arctander (Methyl Anthranilate), Askham (U.S. Patent No. 5,296,226), and the Apple Article, further in view of Gross (U.S. Patent No. 3,071,474). Claims 25 and 26 were rejected as allegedly being unpatentable over Shillington *et al.* (U.S. 3,533,810) in view of the combination of Arctander (Methyl Anthranilate), Askham (U.S. Patent No. 5,296,226) and the Apple Article further in view of Fulton *et al.*

Claims 16, 17, 19 and 22-26 have been canceled. Solely to further prosecution claims 15, 18, 20 and 21 have been amended to be directed to an apple (claim 15) or apple treatment method (claim 20). In particular, currently pending independent claim 15 is directed to "a post-harvest apple that is at approximately 35°F, the post-harvest apple having a mesocarp surrounded by a pericarp, and the pericarp including an exocarp; and an admixture, the admixture is about a 2% to about a 4% methyl anthranilate admixture having been applied to the exocarp of the post-harvest apple for a time period from about one minute to about three minutes, the applied methyl anthranilate being sufficient to impart a grape flavor to the apple with methyl anthranilate being present in the pericarp and the mesocarp of the post-harvest apple, and wherein the post-harvest apple comprises a grape flavor." Thus, claim 15, for example, would apply to a treated apple that is in cold storage prior to distribution. Independent claim 20 is directed to a process for imparting grape flavor including "providing a dip of a grape flavoring admixture, the grape flavoring admixture is about a 2% to about a 4% methyl anthranilate admixture; dipping a post-harvest apple having an exocarp, a pericarp and a mesocarp, in the dip of the grape flavoring admixture, the post-harvest apple being whole and uncut; allowing the dipped apple to remain dipped in the dip of the grape flavoring admixture from about one minute to about three minutes so as to allow the grape flavoring admixture to penetrate through the pericarp and into the mesocarp of the post-harvest apple, wherein a grape flavor is imparted to the post-harvest apple; and storing the grape flavored apple at approximately 35°F."

Apples treated with of a dip of grape flavoring including methyl anthranilate that were cold stored at approximately 35°F (such as being cold stored for 24 hours following treatment with methyl anthranilate, see *e.g.* page 5, lines 11-16; page 5 lines, 23-28; and page 12 lines, 17-19 of the specification) had a pronounced grape flavoring which lasted for months longer than treated apples that were stored (without being subjected to cold storage) at room temperature following treatment with the dip of the grape flavoring including methyl anthranilate. Second, an admixture including a desirable concentration methyl anthranilate having been applied to the exocarp of the post-harvest apple for a time period from about one minute to about three minutes imparted pronounced flavor without causing scalding (see *e.g.*, page 5, lines 6-16 and lines 20-26; page 6, lines 18-19). None of the references either alone or combination teach, suggest or

disclose the aforementioned features. As such, Applicant believes all of the pending claims are non-obvious over the reference art and request the pending 35 U.S.C. §103(a) rejections be withdrawn.

Further, one of ordinary skill in the art could not have predicted with a reasonable degree of success of obtaining Applicant's invention in view of the combination of references. None of the cited references either alone or in combination would have led one of skill in the art to predict that the claimed grape flavored post-harvest apple or method of imparting grape flavor to an apple would impart enhanced grape flavor and the effect of cold storage on prolonging the enhanced grape flavor. As such, Applicant believes that the claims as currently presented are non-obvious and respectfully requests that it be withdrawn.

Commercial Success of Applicant's Invention

As previously presented to the Office in Applicant's August 3, 2009 Response to Office action, the non-obviousness of the claims is further supported by the commercial success of the claimed apple product and the claimed method by which it is made. The commercial success is sufficient to demonstrate non-obviousness of the invention as claimed in as much as the claims are now directed to an apple product (claim 15) or apple treatment method (claim 20).

Therefore, in light of the remarks, claim amendments, currently and previously submitted declarations and comparative data showing commercial success, Applicant believes that the 35 U.S.C. §103(a) rejections have been overcome and respectfully requests that these rejections be withdrawn.

Conclusion

In view of the foregoing, Applicant submits that the Application is in condition for allowance and requests that all rejections be withdrawn. If any issues impede the issuance of a notice of allowance, the Examiner is requested to contact the undersigned prior to the mailing of an action in order to arrange a telephone interview. It is believed that a brief discussion of the merits of the present application may expedite prosecution and allowance of the claims.

Respectfully submitted,

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